

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/13/2009 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 16-28 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. Claims 16-28 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Wolfson (USP 2,865,156).

Regarding claim 16, Wolfson discloses a confectionery dispenser comprising:

- at least two confectionery article magazines (74), each said at least two confectionery article magazines (74) comprising at least one magazine outlet (see Figure 4) being coupled with at least one confectionery article dispenser outlet (22,16) by means of at least one magazine discharge arrangement (see Figures 1-5);
- said magazine discharge arrangement comprising:
- at least two output compartments (23,24) upwardly adjacent of said at least one dispenser outlet (22,16); and
- at least one confectionery article fitting compartment (50,52,24) upwardly adjacent of said at least two output compartments (23,24),
- said magazine outlet being disposed upwardly adjacent of said at least one confectionery article fitting compartment (50,52,24),
- said at least one confectionery article fitting compartment (50,52,24) adapted for performing a movement relative to said at least one magazine outlets (74) upon activation of an activation arrangement (66) and thereby transferring at least one

confectionery article (80) disposed in at least one confectionery article magazine (74) to one of said at least two output compartments (23,24)

- said at least two output compartments (23,24) being adapted for performing a rotating movement upon activation of said activation arrangement (38) and thereby transferring at least one confectionery article comprised in at least one of said output compartments to said dispenser outlet (22,16).

Regarding claim 17, Wolfson discloses the confectionery dispenser according to claim 16, wherein said confectionery article magazines are exchangeable.

Regarding claim 18, Wolfson discloses the confectionery dispenser according to claim 16, wherein said output compartment (23,24) is mechanically coupled with said at least one outlet (22) and thereby facilitating a transfer of at least one confectionery article upon activation of said activation arrangement (see Figures 3-5).

Regarding claim 19, Wolfson discloses the confectionery dispenser according to claim 16, wherein the activation arrangement is manually driven.

Regarding claim 20, Wolfson discloses the confectionery dispenser according to claim 16, wherein the activation arrangement is automatically driven.

Regarding claim 21, Wolfson discloses the confectionery dispenser according to claim 16, wherein said article comprises chewing gum packages.

Regarding claim 22, Wolfson discloses the confectionery dispenser according to claim 16, wherein said magazine discharge arrangement comprises at least one confectionery article fitting compartment being rotatable upon activation by said activation arrangement (see Figures 3-5).

Regarding claim 23, Wolfson discloses the confectionery dispenser according to claim 16, wherein said magazines are fitted to the dispenser in a substantially vertical direction thereby obtaining a gravity facilitated emptying of the magazines into lower compartments when activating the magazine discharge arrangement.

Regarding claim 24, Wolfson discloses the confectionery dispenser according to claim 16, wherein said magazines are fitted in a substantially circular profile, when seen from above.

Regarding claim 25, Wolfson discloses the confectionery dispenser according to claim 16, wherein the magazines define an orientation of the magazine contained article.

Regarding claim 26, Wolfson discloses the confectionery dispenser according to claim 16, wherein the magazines are substantially translucent, thereby facilitating that a user of the dispenser may visually see at least some of the magazine contained articles.

Regarding claim 27, Wolfson discloses the confectionery dispenser according to claim 16, wherein the magazines are arranged within a substantially translucent housing.

Regarding claim 28, Wolfson discloses the confectionery dispenser according to claim 16, wherein said confectionery articles are fed to said discharge arrangement by means of at least two confectionery article holding magazines.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (specifically see USP 4,771,912).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL K. COLLINS whose telephone number is (571)272-8970. The examiner can normally be reached on 8:30 am - 5:00 pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M.K.C.
10/24/2009

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